

Nuclear Regulatory Commission

2012.104-70

so may result in a defective solicitation and the necessity to resolicit the requirement. Care must be taken to avoid specifying characteristics that cannot be shown to materially affect the intended end use and which unnecessarily restrict competition.

(2) When describing essential characteristics, permissible tolerances should be indicated. A characteristic (e.g., a specific dimension) of a brand name product may not be specified unless it is essential to the Government's need. The contracting officer shall be able to justify the requirement.

(c) The clause found at 2052.210-70 must be inserted in all solicitations citing a brand name or equal, except when samples are requested.

(d) An offer may not be rejected for failure of the offered product to equal a characteristic of a brand name product if it was not specified in the brand name or equal description. However, if it is clearly established that the unspecified characteristic is essential to the intended end use, the solicitation is defective and no award may be made. In these cases, the contracting officer should resolicit the requirements, using a purchase description that sets forth the essential characteristics.

(e) In small purchases within the open market limitations, brand name policies and procedures are applicable to the extent practicable.

[57 FR 61164, Dec. 23, 1992]

2010.011 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at 2052.210-71, Drawings, Designs, Specifications, and Data, in all contracts in which drawings, designs, specifications, or other data will be developed and the NRC must retain full rights to them (except for the contractor's right to retain a copy for its own use). When any of the clauses prescribed at FAR 27.409, Solicitation Provisions and Contract Clauses, are in-

cluded in the solicitation/contract, this clause will not be used.

[57 FR 61164, Dec. 23, 1992]

PART 2012—CONTRACT DELIVERY OR PERFORMANCE

AUTHORITY: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

Subpart 2012.104—Contract clauses

2012.104-70 NRC clauses.

(a) The contracting officer shall insert the clause at 2042.212-70, Preparation of Technical Reports, when deliverables include a technical report.

(b) The contracting officer shall insert the clause at 2052.212-71, Technical Progress Report, in all solicitations and contracts except—

(1) Firm fixed price; or

(2) Indefinite-delivery contracts to be awarded on a time and materials or labor-hour basis, or which provide for issuance of delivery orders for specific products/services (line items).

(c) The contracting officer shall insert the clause at 2052.212-72, Financial Status Report, in all solicitations and contracts (except Fixed Price) when detailed assessment of costs is warranted and a Contractor Spending Plan is required; use the clause at 2052.212-73 Financial Status Report—Alternate 1 when no Contractor Spending Plan is required.

(d) The contracting officer may alter these clauses prior to issuance of the solicitation or during competition by solicitation amendment. Reporting requirements should be set at a meaningful and productive frequency. Insignificant changes may also be made by the contracting officer on a case-by-case basis during negotiations, without solicitation amendment.

[57 FR 61165, Dec. 23, 1992, as amended at 58 FR 26253, May 3, 1993]